



Presentation to the Board of Directors

on

TOBACCO INDUSTRY ISSUES

March 30, 1994

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Senior Vice President and General Counsel

***PRIVILEGED AND CONFIDENTIAL***

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Subdiv  
Build 2

## Coordinated Anti-Tobacco Effort

- Administration
- Antis
  - Congress
  - Health Community
- Media

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## **Coordinated Anti-Tobacco Effort**

- **Administration**
- **Antis**
  - **Congress**
  - **Health Community**

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# Coordinated Anti-Tobacco Effort

- Administration

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# Rapid Deterioration in Overall Environment for Tobacco

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## **Administration Initiatives ~~A~~gainst Tobacco**

- **Federal Excise Tax Increase**
- **FDA Regulation of Cigarettes**
- **OSHA Ban on Smoking and "Smoke-Free Environment Act"**
- **Department of Defense Ban on Smoking**
- **Antitrust Division Investigation of Fire-Safe Cigarettes**
- **Attacks by Surgeon General Elders**

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## **Administration Initiatives ~~IX~~ against Tobacco**

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- **Federal Excise Tax Increase**
- **FDA Regulation of Cigarettes**

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# Administration Initiatives ~~A~~gainst Tobacco

- Federal Excise Tax Increase

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## **Anti-Tobacco Initiatives in Congress**

- **GAO Investigation of Nicotine**
- **Waxman Hearings on Nicotine**
- **Anticipated Attack on Ingredients Issue**
  - **Possible Waxman Hearings**
  - **Possible Release of Ingredient List in Violation of Statute**
  - **Possible Preemptive Release by PM**

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- **GAO Investigation of Nicotine**
- **Waxman Hearings on Nicotine**

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# Anti-Tobacco Initiatives In Congress

- GAO Investigation of Nicotine

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## Media Attacks on Tobacco Industry

- ABC's "Day One" Program on Nicotine
- CBS's "60 Minutes" Program on Fire-Safe Cigarettes
- Possible *New York Times* Story on Nicotine Project
  - False Accusations by Disgruntled Former Richmond R&D Employee Relating to Nicotine Project
  - Independent Investigation by Outside Counsel and Prominent Scientists
  - Report Concluding that Accusations Have Absolutely No Merit Provided to *Times* Reporter

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## **Media Attacks on Tobacco Industry**

- **ABC's "Day One" Program on Nicotine**
  - **False Allegation that Cigarette Manufacturers Add Extraneous Nicotine to Keep Smoker Addicted**
  - **Denials Ignored by ABC before Broadcast and Buried in Sensational Media Coverage of Story**
  - **Libel Suit Seeking \$5 Billion in Compensatory Damages and \$5 Billion in Punitive Damages**

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## **Objectives of Libel Suit against ABC**

- **Effective Dissemination of PM's Denial of Allegation**
- **More Careful Coverage of PM and Tobacco Issues**
- **Salutary Effect on Employees and Shareholders**

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## **Libel Suit against ABC**

- **Strong Case But Outcome Uncertain**
- **Heavy Burden of Proving Malice**
- **Possibility of Settlement**
- **No Significant Increase in Discovery Exposure**
- **Invitation to FDA Investigators**
- **“Day One” Statements on Ingredients Not Included in Libel Suit**

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## Media Attacks on Tobacco Industry

- **ABC's "Day One" Program on Nicotine**
- **CBS's "60 Minutes" Program on Fire-Safe Cigarettes**
  - **Allegation that Tobacco Companies Are Able But Refuse to Produce Fire-Safe Cigarettes**
  - **Efforts to Develop Commercially Viable Fire-Safe Cigarettes Not Yet Successful**
  - **Acknowledgment of Problem by Consumer Products Safety Commission**
  - **Extensive Information Provided to Mike Wallace**
  - **Documents Shown in Violation of Court Order and Out of Context**

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## **Anti-Tobacco Initiatives at State and Local Level**

- **Maryland Department of Licensing and Regulation Smoking Ban**
- **Washington State Department of Labor and Industry Smoking Ban**
- **Proposed New York City Smoking Ban**
- **New York City Order to Remove "Marlboro" Sign from Shea Stadium**

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## Other Anti-Smoking Initiatives

- National Restaurant Chain Smoking Bans
  - McDonald's
  - Taco Bell
  - Jack-in-the-Box
- Draft ABA Committee Report on Impact of Drugs on U.S. Justice System
- INFACT Campaign ~~Against~~ the Tobacco Industry *l.c.*

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## **Implications<sup>F</sup> for Smoking<sup>A</sup> and Health Litigation**

- **Brooklyn Grand Jury Investigation**
- **Florida Appellate Decision in Airline Attendants' Class Action Suit**
- **Mississippi Trial Court Holding of Absolute Liability**
- **Juror Attitudes**

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## **Implications for Smoking and Health Litigation**

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